

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. 6-98-48

**AGAINST J. E. TVETEN CORPORATION
FOR THE VIOLATION OF CLEANUP AND ABATEMENT ORDER NO. 6-98-18
BEACON GAS STATION, 3208 HIGHWAY 50, MEYERS
EL DORADO COUNTY**

—
The California Regional Water Quality Control Board, Lahontan Region (Regional Board), finds:

1. Discharger

The J. E. Tveten Corporation has violated provisions of law and orders of the Regional Water Quality Control Board, Lahontan Region (Regional Board), for which the Regional Board may impose administrative civil liability under Section 13350 of the California Water Code.

2. Facility

The J. E. Tveten Corporation is the owner of the Beacon Gas Station, located at 3208 U. S. Highway 50, in the unincorporated community of Meyers, El Dorado County. The Corporation owns the gas station property having County Assessor's Parcel No. 034-321-191. For the purposes of this Order, J. E. Tveten Corporation is identified as the Discharger, and the Beacon Gas Station is identified as the Facility. The Discharger's representative is Mr. Joe Tveten.

3. Facts

A discharge of gasoline to soil and ground water was reported to the Regional Board in February 1998 during a preliminary ground water investigation. The Discharger conducted the site investigation under directives by Regional Board staff to identify whether or not the Facility was responsible for the presence of methyl tertiary-butyl ether (MTBE) in municipal supply wells, 1,300 feet away. The discharge had actually occurred in September 1997 but was not reported by the Discharger to the local underground storage tank permitting agency, the El Dorado County Department of Environmental Management (County Health Department), as required by Title 23, Chapter 16, Sections 2650, 2651, and 2652 of the California Code of Regulations. The period of the discharge and the amount of the discharge are not known. The unreported leak was repaired by the Discharger without oversight by the County Health Department, and the resulting soil and ground water contamination was not cleaned up.

On March 19, 1998, the Regional Board Executive Officer issued Cleanup and Abatement Order No. 6-98-18 to the Discharger for the illegal discharge and threatened discharge of petroleum products from the Facility to ground waters of the Lake Tahoe Hydrologic Unit. Cleanup and Abatement Order No. 6-98-18 listed dates for the Discharger to conduct the following: a) submit a final ground water investigation report; b) submit a workplan to define the extent of soil and ground water pollution, identify the cause of the unauthorized gasoline release, and conduct interim ground water remediation; c) implement the site investigation and interim remediation; d) submit a report of the site investigation, a proposal for off-site plume containment, and a workplan for an additional ground water investigation, if necessary; and e) implement off-site plume containment and the additional ground water investigation.

The Discharger submitted the final ground water investigation report and a workplan to define the extent of soil and ground water pollution, identify the cause of the unauthorized gasoline release, and conduct interim ground water remediation. The Discharger also submitted a report of the site investigation and a workplan for an additional investigation to further define and monitor the plume. Interim ground water remediation and the additional ground water investigation were not conducted. In addition, the Discharger failed to propose and implement off-site plume containment. Delays attributable to the Discharger have allowed the ground water plume containing MTBE to continue spreading beyond the gas station property towards the Upper Truckee River. These inactions by the Discharger have hindered staff efforts to protect water resources and the local water supplies.

4. Factors Affecting the Amount of Civil Liability

Pursuant to Section 13327 of the California Water Code, the Regional Board Executive Officer has considered the following factors in determining the proposed amount of the administrative civil liability:

- a) The nature, circumstances, extent, and gravity of the violations;
- b) Whether the discharge is susceptible to cleanup or abatement;
- c) The degree of toxicity of the discharge;
- d) The violator's ability to pay;
- e) The effect on the violator's ability to continue business;
- f) Any voluntary cleanup efforts undertaken by the violator
- g) Any prior history of violations;
- h) The degree of culpability;
- i) Any economic savings for the violator resulting from the violation; and
- j) Other matters as justice may require.

Each of the above-listed considerations have been addressed within the staff report titled, "Staff Report, J. E. Tveten Corporation for Violation of Deadlines in Cleanup and Abatement Order No. 6-98-18."

5. Violations

The Discharger violated the following provisions of law and orders of the Regional Board:

Cleanup and Abatement Order

The Regional Board Executive Officer issued Cleanup And Abatement Order No. 6-98-18 to the J. E. Tveten Corporation on March 19, 1998. The Cleanup And Abatement Order contains the following deadlines:

- “3. By **April 3, 1998**, submit a final version of the February 1998 ground water investigation report for the Beacon Gas Station. Include a workplan that proposes method(s) to fully delineate the lateral and vertical extent of petroleum pollution (1) in soil and (2) in ground water emanating from the gas station. The supplemental investigation must be able to determine the migration pathway of petroleum constituents towards the Arrowhead wells. The workplan shall discuss a means to evaluate the presence of potential ethers, other than MTBE, and alcohols which could be present in ground water from gasoline products. The workplan must also propose interim remediation and a system design to prevent pollution from migrating from the gas station property.
4. By **April 23, 1998**, following approval by Board staff, implement the ground water investigation workplan and interim remediation referenced in Order No. 3 above.
5. By **May 28, 1998**, submit a technical report to this Regional Board that defines the boundaries of soil and ground water pollution from the Beacon Gas Station to the Arrowhead municipal supply wells. Show non-detect soil and ground water pollution contours for MTBE, BTEX compounds, and TPH-gasoline on site maps. Describe the vertical thickness of petroleum pollution at the source area and towards the STPUD's Arrowhead wells. State the depth of unconfined and confined aquifers. Discuss whether the unauthorized release of petroleum products is current or related to a previous event. If the release is current, describe what actions will be taken to stop the release. Submit information that shows that clean up and abatement is in operation to prevent the ground water plume from migrating from the gas station property. Such information shall include permits and paperwork from applicable agencies to operate the interim remediation system, and other information regarding removal rates, influent and effluent concentrations, area of influence of the system, etc. Propose an off-site location and a remediation method for containing ground water pollution and preventing impacts to the STPUD's Arrowhead wells. Show designs for the off-site system. If the non-detect lateral and vertical boundaries of the ground water plume were not defined

in the previous investigation, include a workplan that proposes additional ground water sampling points.

6. By **June 25, 1998**, following approval by Board staff, implement off-site plume containment referenced in Order No. 5 above and additional ground water investigation, if needed.”

Of the above-referenced deadlines, the latter three were violated when the Discharger failed to implement interim ground water remediation at the gas station, submit a workplan for and implement off-site plume containment, and conduct an additional ground water investigation.

6. Civil Liability - California Water Code

The Regional Board may impose civil liability under the following Section:

Pursuant to Section 13350(d)(1) of the California Water Code, when there is a discharge, a person may be liable in the following amount for intentionally or negligently violating a cleanup and abatement order issued by a regional board.

A liability not to exceed five thousand dollars (\$5,000), but shall not be less than five hundred dollars (\$500), for each day in which the discharge occurs and for each day the cleanup and abatement order is violated.

7. Administrative Civil Liability Complaint Issued by Executive Officer

The Regional Board Executive Officer issued Administrative Civil Liability Complaint No. 6-98-44 to the Discharger on July 17, 1998. The complaint imposed an administrative civil liability in the amount of \$84,000 for 84 days of violation of Cleanup And Abatement Order No. 6-98-18.

8. Amount of Civil Liability

The Discharger has violated State law and orders of the Regional Board. As discussed in the Regional Board staff report titled, “Staff Report, J. E. Tveten Corporation for Violation of Deadlines in Cleanup and Abatement Order No. 6-98-18,” the Discharger has violated requirements of the Cleanup and Abatement Order by failing to implement interim ground water remediation at the gas station, submit a workplan for and implement off-site plume containment, and conduct an additional ground water investigation.

For the 84 days of violation (April 23 through July 16, 1998), the Discharger is potentially liable in an amount not to exceed \$420,000, in accordance with Section 13350(d)(1) of the California Water Code. Based upon the evidence presented by Regional Board staff, the Discharger, or its representative, at the August 6 and 7, 1998 Regional Board meeting, and based upon consideration of the factors identified in

Section 13327 of the California Water Code, (including staff costs of \$8,400) the Regional Board affirms Administrative Civil Liability Complaint No. 6-98-44 for the amount of \$84,000.

9. California Environmental Quality Act

This enforcement action is being taken by the Regional Board to enforce provisions of the California Water Code and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 210000 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

10. Public Hearing

On August 6 and 7, 1998, at the Lake Tahoe Community College, One College Drive, in South Lake Tahoe, California, after due notice to the Discharger and other affected persons, the Regional Board conducted a public hearing at which the Discharger, or its representative, appeared and evidence was received concerning the violation of Cleanup And Abatement Order No. 6-98-18.

11. Amount of Administrative Civil Liability Affirmed by the Regional Board

At the August 6 and 7, 1998 public hearing, the Regional Board affirmed Administrative Civil Liability Complaint No. 6-98-44 for the amount of \$84,000 for the 84 days of violation of Cleanup And Abatement Order No. 6-98-18. In adopting this Administrative Civil Liability Order, the Regional Board adopted the "Staff Report, J. E. Tveten Corporation for Violations of Deadlines in Cleanup and Abatement Order No. 6-98-18" and its findings.

IT IS HEREBY ORDERED that, pursuant to Section 13350 of the California Water Code:

1. Administrative Civil Liability Complaint No. 6-98-44, which was issued by Harold J. Singer, Executive Officer, on July 17, 1998, is hereby affirmed.
2. Administrative Civil Liability is imposed on the J. E. Tveten Corporation in the amount of eighty-four thousand dollars (\$84,000). The entire amount shall become due and payable on August 21, 1998.

3. If the above civil liability is not received at the Regional Board's South Lake Tahoe office by August 21, 1998, the Executive Officer is authorized to refer this matter to the offices of the California Attorney General for collection.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region, on August 7, 1998.

HAROLD J. SINGER
EXECUTIVE OFFICER